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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 JAMES LAMONT MOORE, Case No. 2:19-cv-02110-KJD-DJA
10 v. Petitioner,
11 JERRY HOWELL, et al.,
12 Respondents.
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14 Petitioner James Lamont Moore has submitted a *pro se* petition for writ of
15 habeas corpus pursuant to 28 U.S.C. § 2254. He has responded to this court's show-
16 cause order (see ECF No. 7). The court has reviewed the petition pursuant to Habeas
17 Rule 4, and respondents shall file a response.

18 A petition for federal habeas corpus should include all claims for relief of which
19 petitioner is aware. If petitioner fails to include such a claim in his petition, he may be
20 forever barred from seeking federal habeas relief upon that claim. See 28 U.S.C.
21 §2254(b) (successive petitions). If petitioner is aware of any claim not included in his
22 petition, he should notify the court of that as soon as possible, perhaps by means of a
23 motion to amend his petition to add the claim.

24 **IT IS THEREFORE ORDERED** that respondents shall file a response to the
25 petition, including potentially by motion to dismiss, within **ninety (90) days** of service of
26 the petition, with any requests for relief by petitioner by motion otherwise being subject
27 to the normal briefing schedule under the local rules. Any response filed shall comply
28 with the remaining provisions below, which are entered pursuant to Habeas Rule 5.

1 **IT IS FURTHER ORDERED** that any procedural defenses raised by respondents
2 in this case shall be raised together in a single consolidated motion to dismiss. In other
3 words, the court does not wish to address any procedural defenses raised herein either
4 *in seriatum* fashion in multiple successive motions to dismiss or embedded in the
5 answer. Procedural defenses omitted from such motion to dismiss will be subject to
6 potential waiver. Respondents shall not file a response in this case that consolidates
7 their procedural defenses, if any, with their response on the merits, except pursuant to
8 28 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly lacking merit. If
9 respondents do seek dismissal of unexhausted claims under § 2254(b)(2): (a) they shall
10 do so within the single motion to dismiss not in the answer; and (b) they shall
11 specifically direct their argument to the standard for dismissal under § 2254(b)(2) set
12 forth in *Cassett v. Stewart*, 406 F.3d 614, 623-24 (9th Cir. 2005). In short, no
13 procedural defenses, including exhaustion, shall be included with the merits in an
14 answer. All procedural defenses, including exhaustion, instead must be raised by
15 motion to dismiss.

16 **IT IS FURTHER ORDERED** that, in any answer filed on the merits, respondents
17 shall specifically cite to and address the applicable state court written decision and state
18 court record materials, if any, regarding each claim within the response as to that claim.

19 **IT IS FURTHER ORDERED** that petitioner shall have **45 days** from service of
20 the answer, motion to dismiss, or other response to file a reply or opposition, with any
21 other requests for relief by respondents by motion otherwise being subject to the normal
22 briefing schedule under the local rules.

23 **IT IS FURTHER ORDERED** that any additional state court record exhibits filed
24 herein by either petitioner or respondents shall be filed with a separate index of exhibits
25 identifying the exhibits by number. The CM/ECF attachments that are filed further shall
26 be identified by the number of the exhibit in the attachment.

1 **IT IS FURTHER ORDERED** that the parties SHALL SEND courtesy copies of **all**
2 **pleadings and indices of exhibits only** in this case to the Clerk of Court, 400 S. Virginia
3 St., Reno, NV, 89501, directed to the attention of "Staff Attorney" on the outside of the
4 mailing address label. Additionally, in the future, all parties shall provide courtesy copies
5 of any additional exhibits submitted to the court in this case, in the manner described
6 above.

7 **IT IS FURTHER ORDERED** that the Clerk **shall file** petitioner's motion for
8 appointment of counsel (ECF No. 1-3).

9 **IT IS FURTHER ORDERED** that petitioner's motion for appointment of counsel
10 (ECF No. 1-3) is **DENIED**.

13 DATED: 18 March 2020.



15 KENT J. DAWSON
16 UNITED STATES DISTRICT JUDGE